

GERAL BEVERIDGE

IBLA 74-137

Decided February 21, 1974

Appeal from decision (NM 19445) of New Mexico State Office, Bureau of Land Management, rejecting oil and gas offer to lease.

Affirmed.

Oil and Gas Leases: Generally--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Known Geological Structure--Oil and Gas Leases: Lands Subject to

A noncompetitive oil and gas offer to lease must be rejected where either before or after the filing of the offer and prior to the time of the issuance of the lease the land is determined as of that time to be within the known geologic structure of a producing oil or gas field, even though such offer may have been conditionally approved prior to the inclusion of the land within such structure.

Oil and Gas Leases: Known Geological Structure

The Geological Survey's definition of the known geologic structure of a producing oil or gas field will not be disturbed in the absence of a clear and definite showing that the definition was improperly made.

It is not necessary that every piece of land defined as being on a known geologic structure be productive; such a structure is the trap, whether structural or stratigraphic, in which an accumulation of oil or gas has taken place and the limits of the structure are the known or inferred limits of the trap.

Accounts: Payments--Oil and Gas Leases: Rentals

The payment of advance rental in connection with an oil and gas lease offer, and the acceptance of such payment by the Bureau of Land Management, do not create a binding obligation on the Bureau to issue an oil and gas lease.

APPEARANCES: R. C. Beveridge, Midland, Texas, for appellant.

OPINION BY MR. FISHMAN

Geral Beveridge has appealed from a decision dated October 17, 1973, rendered by the New Mexico State Office, Bureau of Land Management, which rejected her oil and gas offer NM 19445.

The State Office decision rejected the offer on the basis that the land in issue "has been within the known geologic structure of the South Salt Lake Field in Lea County, New Mexico, since June 16, 1973. Therefore, this land may be leased only by competitive bidding as provided under 43 CFR 4120."

Appellant filed for parcel number 86, consisting of lot 11, section 1, T. 21 S., R. 32 E., N.M.P.M., New Mexico, pursuant to a notice dated August 20, 1973. A drawing was held on September 12, 1973, and appellant's card was drawn number 1 for the tract in issue. By memorandum of September 11, 1973, the Area Geologist of the Geological Survey at Roswell, New Mexico, notified the State Office that "[b]ased on development drilling in lot 12, [section 2] T. 21 S., R. 32 E., the following described lands are within an undefined addition to the South Salt Lake Field known geologic structure, effective June 16, 1973 * * *." Among the lands listed was lot 11, section 1, T. 21 S., R. 32 E., N.M.P.M., New Mexico.

On appeal appellant asserts that the land in issue "is not offset by production" and that the Bureau of Land Management "acknowledged the lease sale by sending to * * * [appellant] a receipt for \$20.00" covering the advance rental, which acknowledgment is dated September 18, 1973.

A noncompetitive offer to lease certain land for oil and gas must be rejected where either before or after the filing of the offer and prior to the time of the issuance of the lease the land is determined as of that time to be within the known geologic structure of a producing oil or gas field, even though such offer may have been conditionally approved prior to the inclusion of the land within the limits of the geologic structure. See James W. McDade, 3 IBLA 226 (1971), aff'd, 353 F. Supp. 1006 (D.D.C. 1973); Solicitor's Opinion, 74 I.D. 285 (1967); F. William Johnson, Jr., 3 IBLA 232 (1971).

We take appellant's first ground for appeal to suggest that the land is not within a known geologic structure of a producing oil or gas field. However, the Geological Survey's definition of the known geologic structure of a producing oil and gas field will not be disturbed in the absence of a clear and definite showing that the definition was improperly made. McClure Oil Co., 4 IBLA 255 (1972); Duncan Miller, A-27737 (November 20, 1958). Nor is it necessary that every piece of land defined as being on a known geologic structure of a

producing oil or gas field be productive. The known geologic structure of a producing oil or gas field is the trap, whether structural or stratigraphic, in which an accumulation of oil or gas has taken place and the limits of the structure are the known or inferred limits of the trap. Karl Bruesselbach, A-28061 (October 26, 1959). Appellant's attack on the Geological Survey determination is a bare assertion of error; it, therefore, is insufficient. Duncan Miller, A-30300 (May 13, 1965).

Appellant's suggestion that the acceptance by the Bureau of the advance rental constituted a binding obligation to issue a lease, is clearly erroneous, since no rights to a lease accrue absolutely until the lease itself has been executed by the appropriate official of the Government. McDade v. Morton, 353 F. Supp. 1006, 1010 (D.D.C. 1973). See 43 CFR 3112.4-1 and 43 CFR 3102.7. See also, Dominic J. Repici, 2 IBLA 14 (1971). Cf. Udall v. Tallman, 380 U.S. 1, 4 (1965), rehearing denied, 380 U.S. 989 (1965).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman, Member

We concur:

Douglas E. Henriques, Member

Edward W. Stuebing, Member

